

Exhibit D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Case No. 22 Civ. 2813 (PK)

BRIANNA CAMPBELL, SHAKEIM ROBINSON, and
KEVAUGHN ROBINSON on behalf of themselves and
others similarly situated,

Plaintiff,

- against -

BUKHARI GROUP LLC, NAFEES BUKHARI, an
individual, ALI BUTT, an individual, 4399 BRONX
CHICKEN LLC, BAYCHESTER CHICKEN BG LLC.,
3555 WHITE PLAINS BG LLC, 3411 JEROME AVE
CORP., and CONEY FOOD OF NY LLC,

Defendants.

DECLARATION OF DELMAS A. COSTIN, JR.
IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF THE CLASS ACTION SETTLEMENT

Delmas A. Costin, Jr., an attorney duly admitted to practice law in the State of New York,
affirms the following under the penalties of perjury:

1. That I am the attorney of record for the Plaintiffs herein, and as such, am fully familiar with all the facts and circumstances as set forth herein.
2. I am the principal and founder of The Law Office of Delmas A. Costin, Jr., PC, co-counsel for Plaintiffs, and the putative class and collective action in the above-captioned action.
3. I am familiar with the facts and circumstances of this action. I submit in support of Plaintiffs' Motion for Preliminary Approval of the Class Action Settlement. This declaration summarizes relevant information regarding my experience and qualifications.
4. A true and accurate copy of the contemporaneous time records for my firm in this matter is attached hereto as in **Exhibit 1**.

The Appropriate Hourly Rate for Delmas A. Costin, Jr., \$500 per hour

5. On behalf of Ms. Campbell, I seek to recover attorneys' fees at the hourly rate of \$500.00 for purposes of calculating the lodestar amount. Courts have approved the rate of \$450.00 in 2019 for the undersigned. *This amount is appropriate for attorneys in New York City. See Gonzalez v. Scalinate, Inc., 112 F. Supp. 3d 5, 28 (S.D.N.Y. 2015) (approving hourly rate of \$450 to partner with 17 years' legal experience, six spent prosecuting wage-and-hour cases).* "[C]onsistent precedent in the Southern District reveals that rates awarded to experienced civil rights attorneys over the past ten years have ranged from \$250 to \$600, and that rates for associates have ranged from \$200 to \$350, with average awards increasing over time." *Bailey v. Pataki*, No. 08-CV-8563 (JSR), 2016 WL 3545941, at *6 (S.D.N.Y. June 16, 2016) (rate of \$550 reasonable for lawyers with over a decade of experience); *Abdell v. City of New York*, 2015 U.S. Dist. LEXIS 25510, *9-10 (Collecting cases). See *Williams v. Epic Sec. Corp.*, 368 F. Supp. 3d 651, 658 (SDNY 2019) (approving an attorney fee of \$600.00 per hour for an attorney with 32 years of experience).

6. In making this request, I have assessed the rates of other attorneys like me who have been admitted to the Bar for 24 ½ years, and who have attained a similar level of expertise in the area of employment law and civil rights litigation. I have also surveyed other cases to determine hourly rates authorized by courts.

7. I am a 1999 graduate of Boston University School of Law. I began as an Assistant District Attorney with the office of the Bronx District Attorney, from August 1999 until October 2005. From 2005-2006, I was an associate at Gordon and Silber P.C., primarily defending insurance claims and providing employment law advice to small businesses. From 2006-2007, I worked as

an associate for Holm and O'Hara, where I represented union pension funds and defended unions in discrimination litigation.

8. In September 2007, I opened my own practice, which consisted of plaintiff side employment law and criminal defense. Since 2011, my practice has been almost exclusive representation of plaintiffs in employment discrimination claims and wage and hour cases.

9. I am a long-time member of the National Employment Lawyers Association, a Plaintiff's employment lawyers association, and an active member of its New York Chapter (NELA/NY). Between 2012-2021, I was a member of NELA/NY's Conference Committee which plans bi-annual Continuing Legal Education conferences. I was a presenter at nearly a dozen CLE programs. Additionally, I served on NELA/NY's Board of Directors from 2019-2020. Since 2023, I have been a member of the American Bar Association (ABA), Labor and Employer Law Section. I have been a Panelist or moderator well over a dozen employment law CLE programs sponsored by the ABA in (2024), NELANY (2012 through 2020), the Bronx County Bar Association (2019 and 2024), Black Bar Association of Bronx County (2014 and 2019) and Metropolitan Black Bar (2014). Additionally, I have presented to numerous community groups including the NAACP and local churches.

10. During my career, I settled wages and hour claims for hundreds of clients. Further, I have obtained verdicts in 18 trials and approximately the same number of administrative proceedings or arbitrations. The following represent trials or administrative proceedings:

- a. *In re Yolanda Abraham*, PR 13-064 (New York State Industrial Board of Appeals) (after a public hearing, the court ruled that my client was improperly classified as an employer when she was actually an employee and therefore not liable for paying unpaid wages to other employees).

- b. *In re Elba Peralta PR 15-171* (New York State Industrial Board of Appeals) (after a public hearing, the Board ruled that my client was improperly classified as employer when she was actually an employee and therefore not liable for paying unpaid wages to other employees).
- c. *Mendoza v. El Aguilar Bar and Restaurant, Corp., et al*, 16-CV-6691 (S.D.N.Y. 2018) (after a bench trial, the court issued a defense verdict for my clients of only \$5,000.00 for failure to provide notice under the New York Labor Law and no back wages. Plaintiff's demand was in excess of \$300,000.00).
- d. *Mercado v. King C. Ironwork, Inc.* – 302345/2014 Supreme Court of Bronx County (2018) (Court approved a jury verdict for unpaid wages, interest and attorney's fees totaling \$322,175.21). See Court Order date annexed hereto as **Exhibit 2**.
- e. *Anderson v. New York City Health and Hospital Corporation* 16-cv-0151 (S.D.N.Y. 2021) (hung jury on age, race, and retaliation claims).
- f. *Esmerlin Rozon v. Grini's Grill & Restaurant and Wilson Monegro* – Index No. 653624/2019 (gender discrimination claim which settled on the third day of a jury trial).

The Appropriate Hourly Rate for Dawn Levy Weinstein is \$350.00 per hour

- 11. Dawn Weinstein is of Counsel of my law firm. Ms. Weinstein is a 1988 graduate of Cornell University School of Industrial Labor Relations and a 1991 graduate of Hofstra University School Law. From 1992-1994, Ms. Weinstein practiced with Raff & Becker where she represented clients in all aspects of employment litigation. From 1994-1999, Ms. Weinstein worked for SUNY Downstate Medical Center as a Labor Relations Personnel Associate where she was involved with all facets of labor and employment law. Ms. Weinstein did not practice law for a number of years in order to focus on raising her family. In February 2017, Ms. Weinstein became of Counsel to

the law office of Delmas A. Costin, Jr, PC. and has worked on exclusively on employment law claims. Dr. Johnson requests Ms. Levy-Weinstein be compensated \$350 per hour for her work.

The Appropriate Hourly Rate for Law Clerks is \$175.00 and Paralegals is \$100.00

12. I request that the Court utilize an hourly rate of \$175 per hour for Raquel Urena for purposes of calculating the lodestar amount Ms. Urena practiced law in the Dominican Republic for 3 years and earned her LL.M. from Brooklyn Law School in 2021. *Manley v Midan Rest. Inc.*, 2017 US Dist LEXIS 44560, (SDNY Mar. 27, 2017) (\$150 for law clerk is appropriate). *Guallpa v NY Pro Signs Inc.*, 2014 US Dist LEXIS 77033, (SDNY May 27, 2014). See *Williams v Epic Sec. Corp.*, 368 F Supp 3d 651, 659 (SDNY 2019) (finding that law clerks are typically compensated at the rate of \$150 per hour). See *Perez Garcia v. Hirakegoma Inc.*, No. 17 Civ. 7608 (SLC), 2020 U.S. Dist. LEXIS 40637, 2020 WL 1130765, at *12 (S.D.N.Y. Mar. 9, 2020).

13. I request that the court utilize an hourly rate of \$100.00 per hour for Paralegals for purposes of calculating the lodestar amount. Three paralegals worked on this case. Deliana Perez graduated from St. John's University with a Bachelor of Science Degree in Legal Studies in 2023. Charlin Peguero graduated from SUNY Plattsburg with a Bachelor of Arts in Sociology in 2022. Ricardo Rosado graduated from Fordham University with a Bachelor of Arts in Business Administration and Management in 2020. This amount is comparable to an award in another civil rights litigation. See *Perez Garcia v. Hirakegoma Inc.*, No. 17 Civ. 7608 (SLC), 2020 U.S. Dist. LEXIS 40637, 2020 WL 1130765, at *12 (S.D.N.Y. Mar. 9, 2020) (noting that hourly rates of \$100 to \$150 for paralegals is typical in this District); *Rosales v Gerasimos Enters.*, 2018 US Dist LEXIS 1230, (SDNY Jan. 3, 2018, No. 16-CV-2278 (RA)).

14. My firm maintains a practice of entering time directly into a timekeeping program either upon completion of the task at hand or at the end of the day on which we have performed work.

Before submitting this Declaration and attached time sheets, I reviewed the time sheets for accuracy. In reviewing my time sheets in connection with the application, I did not add any entries that were not recorded contemporaneously.

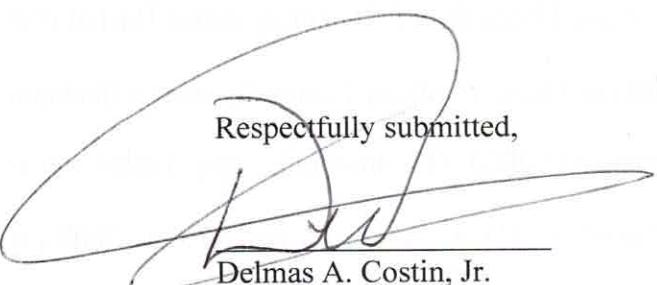
15. Additionally, this firm took the case on a contingency basis. My client did not pay anything. As a result, this firm alone bore the burdens and associated risks of litigation.

16. My firm billed 25.5 hours on this case for a total of \$10,410.00 in attorneys' fees. I applied an across-the-board reduction of 20% rounded downwards to 20 hours and fees totaling \$8,165.00 in the exercise of billing judgment and to further increase the reasonableness of the time and fees claimed.

17. The attached statement of time is based on contemporaneous time records. My staff and I entered out time directly into a time keeping program upon completion of the task at hand. I reviewed the time sheets for accuracy, and I did not add any entries that were not recorded contemporaneously.

Dated: Bronx, New York
November 26, 2024

Respectfully submitted,


Delmas A. Costin, Jr.
**THE LAW OFFICE OF
DELMAS A. COSTIN, JR., PC**
930 Grand Concourse, Suite 1B
Bronx, NY 10451
Telephone: (718) 618-0589
dacostin@dacostinlaw.com

*Attorneys for Plaintiffs and the
Putative FLSA Collective and Classes*

Exhibit 1

Time & Expenses for Campbell, Brianna v. Popeyes - 01/01/2001 - 11/26/2024

Total Billable Flat Fees	Total Billable Hours	Total Billable Amount	Total Billable Expenses
\$0.00	25.5 hours	\$10,410.00	\$0.00

User	Billable Flat Fees	Billable Hours	Total Billable Amount	Billable Expenses	Non-Billable Expenses	Non-Billable Hours
Delmas A Costin, Jr.	\$0.00	21.5 hours	\$9,890.00	\$0.00	\$0.00	0.0 hours

Flat Fees

This user has no flat fees for the selected period.

Time Entries

Date	Activity	Rate	Duration	Total	Billable	Case Link	Case Number	Status	General	Telephone Call	Legal Research	Drafted Correspondence to	Drafted Motion	Drafted Comp
06/29/2021	Correspondence with	\$450.00/hr	0.1	\$45.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Brianna re: update.													
06/30/2021	Telephone Call	\$450.00/hr	0.3	\$135.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	client re: potential class/collective action.													
07/01/2021	Review of	\$450.00/hr	0.2	\$90.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	discovery related to defendant research													
08/24/2021	Telephone Call	\$450.00/hr	0.1	\$45.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with Brianna Campbell re: update													
08/24/2021	Telephone Call	\$450.00/hr	0.2	\$90.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Troy Kessler and Garrett Kaske re: legal strategy													
09/02/2021	Telephone Conversation	\$450.00/hr	0.3	\$135.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Garret Kaske re: legal strategy and update													
09/07/2021	Telephone Conversation	\$450.00/hr	0.2	\$90.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with Garrett Kaske, Esq. and Elizabeth Gorman, Esq. re: initial call.													
09/09/2021	Review of	\$450.00/hr	0.3	\$135.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	and revision of joint correspondence to Elizabeth Gorman, Esq. re: initial demand to defendants.													
11/05/2021	Telephone Call	\$450.00/hr	0.1	\$45.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with Garrett Kaske re: legal strategy, identifying the proper defendants and client management.													
11/18/2021	General	\$450.00/hr	0.3	\$135.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Review of draft complaint													
02/17/2022	Correspondence with	\$450.00/hr	0.1	\$45.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Defense, Garrett and Troy re: status of the case and legal strategy.													
10/04/2022	Review of	\$450.00/hr	0.2	\$90.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Initial Disclosures													
10/22/2022	Review of	\$450.00/hr	0.4	\$180.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	documents provided by defendants													
11/09/2022	Correspondence with	\$450.00/hr	0.3	\$135.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	co-counsel re: litigation strategy and settlement													
12/27/2022	Telephone Conversation	\$450.00/hr	0.5	\$225.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with Troy Kessler and Garret Kaske re: mediation goals and objectives													
01/03/2023	Mediation	\$450.00/hr	7.6	\$3,420.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Attendance at mediation.													
02/08/2023	Telephone Conversation	\$450.00/hr	0.5	\$225.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with defense counsel and Garrett Kaske re: discovery order.													
06/21/2024	Court Appearance	\$500.00/hr	1.0	\$500.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	Motion for Preliminary Settlement Approval before Magistrate Judge Peggy Kuo													
10/16/2024	Telephone Conversation	\$500.00/hr	0.2	\$100.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	with Garrett Kaske re: legal strategy													
10/17/2024	Correspondence with	\$500.00/hr	0.1	\$50.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						
	KatzMelinger attorneys, Troy Kessler, Garret Kaske re: setting up a time for the attorneys to discuss competing class action claims against Popeyes													
10/22/2024	Telephone Conversation	\$500.00/hr	0.4	\$200.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced						

Date	Activity	Rate	Duration	Total	Billable	Case Link	Case Number	Status	General	Telephone Call	Legal Research	Drafted Correspondence to	Drafted Motion	Drafted Complaint	Cou
11/26/2024	General	\$125.00/hr	0.1	\$12.50	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced							

Edited Delmas Costin Declaration

Expenses

This user has no expenses for the selected period.

User	Billable Flat Fees	Billable Hours	Total Billable Amount	Billable Expenses	Non-Billable Expenses	Non-Billable Hours
User Ricardo Rosado	\$0.00	1.7 hours	\$170.00	\$0.00	\$0.00	0.0 hours

Flat Fees

This user has no flat fees for the selected period.

Time Entries

Date	Activity	Rate	Duration	Total	Billable	Case Link	Case Number	Status	General	Telephone Call	Legal Research	Drafted Correspondence to	Drafted Motion	Drafted Complaint	Cou									
06/22/2021	General	\$100.00/hr	0.1	\$10.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Conducted defendant research.</p>															
06/23/2022	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Efiled a notice of Appearance with Eastern District of NY</p>															
07/06/2022	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Saved and renamed documents provided by co-counsel</p>															
08/04/2022	General	\$100.00/hr	0.1	\$10.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Saved client's text messages related to her employment</p>															
12/21/2022	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Conducted a file review to make sure that the client had all required documents and forms</p>															
02/02/2023	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Drafted, mailed, and emailed correspondence requesting documents from the client</p>															
02/23/2023	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Called the client regarding annual update document request, started a workflow to follow up</p>															
02/27/2023	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Downloaded and saved documents and information provided by the client</p>															
02/27/2023	General	\$100.00/hr	0.1	\$10.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Requested more documents from the client</p>															
03/22/2023	General	\$100.00/hr	0.2	\$20.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced	<p>Downloaded and saved documents provided by the client</p>															

Expenses

This user has no expenses for the selected period.

User	Billable Flat Fees	Billable Hours	Total Billable Amount	Billable Expenses	Non-Billable Expenses	Non-Billable Hours
User Joshua Santiago	\$0.00	0.0 hours	\$0.00	\$0.00	\$0.00	0.0 hours

Flat Fees

This user has no flat fees for the selected period.

Time Entries

This user has no time entries for the selected period.

Expenses

This user has no expenses for the selected period.

User Raquel Urena	Billable Flat Fees \$0.00	Billable Hours 1.2 hours	Total Billable Amount \$180.00	Billable Expenses \$0.00	Non-Billable Expenses \$0.00	Non-Billable Hours 0.0 hours
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Flat Fees

This user has no flat fees for the selected period.

Time Entries

Date	Activity	Rate	Duration	Total	Billable	Case Link	Case Number	Status	General	Telephone Call	Legal Research	Drafted Correspondence to	Drafted Motion	Drafted Complaint	Co
06/22/2021	General	\$150.00/hr	1.2	\$180.00	Yes	Campbell, Brianna v. Popeyes	--	Un-Invoiced							

Defendant research on various defendants and Plaintiff.

Expenses

This user has no expenses for the selected period.

Exhibit 2

Certification

STATE OF NEW YORK, COUNTY OF BRONX, SS:

I, Luis M. Diaz, County Clerk and Clerk of Supreme Court Bronx County,

do hereby certify that on May 1, 2019 I have compared

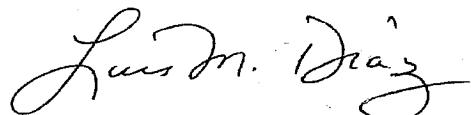
the document attached hereto,

302345/2014 Notice of Entry filed 4/9/2019 page(s) 2-3

with the originals filed in my office and the same is a correct transcript

therefrom and of the whole of such original in witness

whereto I have affixed my signature and seal.



**LUIS M. DIAZ
BRONX COUNTY CLERK**

Supreme Court of the State Of New York
County of Bronx

X Index No: 302345-2014

AILING MERCADO

Plaintiff,

Decision/Order

-against-

Hon. Donald A. Miles
Justice, Supreme CourtKING C. IRONWORK, INC., 349 METROPOLITAN
AVENUE, LLC, MASADA METROPOLITAN LLC,
AVI GALAPO, IRON KING CONSTRUCTION CORP,
and FIRST CLASS CONSTRUCTION CORPORATION,

Defendant.

X

Plaintiff's counsel moves, herein, for an order, granting him reasonable attorneys fees and costs, pursuant to NYLL §198. A verdict was rendered by the jury in favor of plaintiff on August 20, 2018, and the Court finds and decides as follows:

In the case at bar, plaintiff's counsel made the following submission in support of his motion:

- a) Court transcript, dated August 16, 2018;
- b) verdict sheet;
- c) stipulation between the parties;
- d) estimated billing;
- e) curriculum vitae Dawn Levy-Weinstein;
- f) affidavit of Raquel Urena;
- g) curriculum vitae for Leslie Polanco;
- h) affirmation of John Troy, Esq., in support of the motion; and
- I) summons with attached billing statements and paid receipts.

Counsel's testimony in regards to this matter was credible and persuasive. Defendant failed to offer opposition to the motion. Instead, defendant made an appearance by new counsel, who lacked personal knowledge of the case, and who requested an adjournment which was subsequently denied.

Here, plaintiff counsel has established his entitlement to an hourly rate of

\$450.00, based on his past legal experience. He spent 118.19 hours through verdict, for a total of \$53,208.00. Additionally, he spent 14.83 hours preparing the instant motion for reasonable attorney fees and judgment, totaling \$6,673.

Dawn Weinstein, of counsel, has established her entitlement to a hourly fee of \$300.00. She drafted a motion for a protective order, conducted legal research and provided critical input in the litigation of this case. Ms. Weinstein spent a total of 39.60 hours working on this case for a total of \$11,880.00.

Plaintiff's counsel also required the services of his paralegal, Raquel Urena, at a rate of \$100.00 per hour for 45.92 for a total of \$4,592.00. Further, the services of a previous paralegal, Leslie Polanco, with respect to this case was utilized. Her rate was also \$100.00 an hour for 9.14 hours, totaling of \$914.00. Additionally, incurred costs of \$1,588.40.

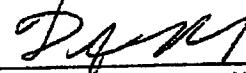
Based on the aforementioned evidentiary submissions and the testimony of plaintiff's counsel, an un-rebutted *prima facie* showing of entitlement to relief sought in the instant motion has been established.

Pursuant to NYLL §198, the Court grants the motion in its entirety and finds in favor of plaintiff's counsel and against defendants in the amount of \$77,245.50 in reasonable attorney fees plus \$1,588.40 in costs.

The Clerk is directed to enter Judgment accordingly.

This constitutes the Decision and Order of the Court.

Dated: Bronx, New York
February 19, 2019


Hon. Donald A. Miles
Justice, Supreme Court